

MARY ANN SMITH
Deputy Commissioner
SEAN ROONEY
Assistant Chief Counsel
KENNY V. NGUYEN (State Bar No. 233385)
Senior Counsel
Department of Business Oversight
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-8782
Facsimile: (916) 445-6985

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	NMLS ID. 320166
)	
THE COMMISSIONER OF BUSINESS)	FIRST AMENDED ACCUSATION IN
OVERSIGHT,)	SUPPORT OF ORDER REVOKING
)	MORTGAGE LOAN ORIGINATOR LICENSE
)	OF BEN ALEXANDER-OWENS ANDERSON
Complainant,)	
)	
v.)	
)	
BEN ALEXANDER-OWENS ANDERSON,)	
)	
<u>Respondent.</u>)	

The Commissioner of Business Oversight (Commissioner) finds against the Respondent Ben Alexander-Owens Anderson (Anderson) as follows:

I.

Introduction

The Commissioner seeks to revoke Anderson’s mortgage loan originator (MLO) license pursuant to Financial Code section 50513 because Anderson failed to promptly disclose in his license renewal application information regarding a civil lawsuit seeking to enjoin him from conducting business in financial services. In addition, revocation is necessary because Anderson cannot demonstrate that he has “such financial responsibility, character, and general fitness or to command the confidence of the community” or that he “will operate honestly, fairly, and efficiently within the purpose of this division.”

II.**Statement of Facts****A. MLO Licensure with DBO**

1. On June 2, 2010, Anderson filed an application for a mortgage loan originator license with the Commissioner pursuant to the California Financing Law (CFL) (Fin. Code, § 22000 et seq.), in particular, Financial Code section 22105.1. The application was for employment as a mortgage loan originator and was submitted to the Commissioner when Anderson completed and filed a Form MU4 through the Nationwide Mortgage Licensing System & Registry (NMLS).
2. In submitting his application, Anderson was required to sign an oath and attestation agreeing “to keep the information contained in this [MU4] form current and to file accurate supplementary information on a timely basis...”
3. Based on the information provided in his application and his agreement to keep the information current or to supplement, Anderson was issued an MLO license on August 11, 2010.
4. As a prerequisite to having the MLO license, Anderson was required to have a sponsoring entity, which he satisfied through his employer, Mount Olympus Mortgage Company, Inc. (MOMCo) (NMLS ID. 166794).

B. Failure to Obtain Borrowers’ Consent Prior to Sharing Their Confidential Financial Information Was Shared with Others

5. Beginning as early as April 2014, Anderson began making arrangements to move from MOMCo to a different employer - Guaranteed Rate, Inc. (Guaranteed) (NMLS ID. 2611). In exchange for compensation by Guaranteed, Anderson surreptitiously and without MOMCo’s knowledge or consent, arranged to transfer MOMCo’s confidential and proprietary information to Guaranteed before leaving MOMCo. Between March and June of 2014, Anderson initiated and abetted the transfer of MOMCo’s confidential and proprietary information, including MOMCo borrowers’ tax returns and bank account statements, to Guaranteed, in violation of MOMCo’s written policies, which Anderson had signed and agreed to abide by.
6. During the transfer of files, Anderson failed to obtain written consent of many customers to

1 remove their confidential financial information from MOMCo's computer servers, download them to
2 private Internet accounts, and send them to Guaranteed.

3 **C. Failure to Timely Disclose Lawsuit**

4 7. On or about June 5, 2014, MOMCo terminated Anderson's employment. On or about
5 June 19, 2014, MOMCo initiated a civil lawsuit against Anderson in Orange County Superior
6 Court (Case No. 30-2014-00729438-CU-BT-CJC). The complaint in the lawsuit alleged that
7 Anderson, working with other MOMCo employees "conspired with Guaranteed, during the
8 course of several months, to carry out a scheme to defraud MOMCo of its confidential and
9 proprietary information" and "misappropriated MOMCo's confidential and proprietary
10 information and directed MOMCo customers to Guaranteed in violation of their respective
11 agreements with MOMCo, as well as California common law and statutory laws." Furthermore,
12 the complaint alleged and included a prayer for relief that sought a court issued "injunction
13 restraining and enjoining" Anderson "from disclosing or utilizing any confidential, proprietary
14 and trade secret protected information obtained from MOMCo including, but not limited to, the
15 identity of MOMCo's customers and their preferences for MOMCo's loan origination services."
16 In other words, the lawsuit brought by MOMCo sought injunctive relief that prohibited
17 Anderson from engaging in lending services for borrowers whose files and identities Anderson
18 had stolen from MOMCo and brought over to Guaranteed.

19 8. Anderson was served with the summons and complaint by substituted service at his
20 residence on or about June 30, 2014. Despite having been made aware that he was named in a
21 civil action related to financial services where the plaintiff was seeking to enjoin him in
22 connection with financial services-related activity, Anderson did not promptly amend his MU4
23 application to disclose this information. As of July 2014, Anderson's response was still "no" to
24 Civil Disclosure question (J)(2) on the MU4 application, which specifically asked:

25 (J)(2) Is there a pending financial services-related civil action in which
26 you are named for any alleged violation described in (J)(1)?

27 Question (J)(1) on the MU4 application asked:

28 (J)(1) Has any domestic or foreign court ever: (a) enjoined you in
connection with any financial services-related activity?

1 9. It was not until nearly two years later, on or about June 16, 2016, that Anderson finally
2 submitted an amended MU4 application where he changed his answer from “no” to “yes” in
3 response to Civil Disclosure question (J)(2). In the explanation portion of the application,
4 Anderson disclosed for the first time that he was “writing to notify you of a pending financial
5 services-related civil action in which a privately held mortgage lending company in California,
6 Mount Olympus Mortgage Company, Inc. (‘MOMCo’) sued me as well as my current employer
7 Guaranteed Rate, Inc. (‘Guaranteed Rate’) alleging that while my license was still sponsored by
8 MOMCo I sent confidential loan information (documents typically needed to underwrite a loan)
9 from MOMCo to Guaranteed Rate for the purpose of originating loans at Guaranteed Rate.”
10 Anderson went on to disclose that there had been a jury trial in the lawsuit, a verdict in favor of
11 MOMCo, and that he was considering an appeal.

12 **D. Unauthorized Taking of Borrower Data and Transfer to Competitor**

13 10. At the beginning of his employment with MOMCo, on or about June 17, 2010, Anderson
14 signed a Standards of Conduct Policy with MOMCo whereby he agreed to abide by MOMCo’s
15 policy not to refer business to a direct competitor of MOMCo.

16 11. On or about November 24, 2010, Anderson signed an employee Confidentiality Agreement
17 with MOMCo wherein he agreed not to disclose, use or transfer MOMCo’s confidential customer
18 lists without MOMCo’s express consent.

19 12. Despite agreeing to the terms of the Confidentiality Agreement and Standards of Conduct
20 Policy, Anderson referred loans to Guaranteed while he was employed at MOMCo, in exchange for
21 promised compensation by Guaranteed. Beginning in April of 2014, Anderson sent customer
22 information from MOMCo to Guaranteed. He did this without MOMCo’s consent.

23 13. On or about March 22, 2016, a jury in the case *Mount Olympus Mortgage Company v.*
24 *Anderson, et al.*, Case Number 30-2014-00729438-CU-BT-CJC, in Orange County Superior Court
25 found that Anderson knowingly engaged in the unauthorized copying or taking of MOMCo’s
26 mortgage loan computer files and borrower data in order to transfer the files/data to Guaranteed
27 Rate for the purpose of closing loans at Guaranteed Rate.

28 14. The jury also awarded damages against Anderson in the amount of \$5,607,000 for lost profits

1 to MOMCo, \$4,612,000 for lost business value to MOMCo, and \$1,960,000 in unjust enrichment.

2 15. Anderson has not appealed the jury findings, verdict, and judgment against him, and the time
3 to file an appeal has expired.

4 **E. Failure to Timely Disclose Unsatisfied Liens**

5 16. On March 22, 2016, during the trial in the *Mount Olympus Mortgage Company v. Anderson,*
6 *et al.*, Anderson revealed that he had multiple unsatisfied liens, including a mechanic’s lien filed
7 against him. He revealed this information in an effort to mitigate against an award of punitive
8 damages.

9 17. On or about June 16, 2016, Anderson filed an amended MU4, which contained Financial
10 Disclosure question (D), which asks:

11 Do you have any unsatisfied judgments or liens against you?

12 Anderson’s response to the question was “No,” despite the fact that he disclosed in the civil lawsuit
13 that he had multiple unsatisfied liens.

14 18. This was not the first time Anderson failed to disclose unsatisfied liens. Beginning
15 September 23, 2008, the Franchise Tax Board recorded two tax liens against Anderson for income
16 taxes owed in 2006 and 2007. Although the liens were ultimately discharged on May 8, 2013,
17 Anderson did not disclose the existence of the liens on any of his MU4 filings until 2018.

18 **III.**

19 **Applicable Law**

20 19. Financial Code section 50513 authorizes the Commissioner to revoke a mortgage loan
21 originator license if the licensee fails at any time to meet the requirement of Financial Code section
22 50141. (Fin. Code, § 50513, subd. (a)(2).)

23 20. Financial Code section 50141 requires the Commissioner to deny an application for a
24 mortgage loan originator license if the Commissioner cannot find that the applicant “has
25 demonstrated such financial responsibility, character, and general fitness or to command the
26 confidence of the community and to warrant a determination that the mortgage loan originator will
27 operate honestly, fairly, and efficiently within the purpose of this division.” (Fin. Code, § 50141,
28 subd. (a)(3).)

21. In addition, Financial Code section 50513 allows the Commissioner to revoke a mortgage loan originator license if an applicant “withholds information or makes a material misrepresentation in an application for license or license renewal.” (Fin. Code, § 50513, subd. (a)(2).)

IV.

Grounds for Revoking Anderson’s MLO License

22. The Commissioner has determined that there are grounds to revoke Anderson’s MLO License under both Financial Code sections 50141 and 50513, for the following reasons:

(a) A jury has found by a preponderance of the evidence that Anderson secretly misappropriated confidential and proprietary information, including customer information, from his former employer, MOMCo, with the knowledge that such action violated MOMCo’s written policies, which Anderson had agreed to abide by;

(b) Anderson failed to inform many of MOMCo’s customers that their confidential financial information was being shared with Guaranteed. As such, Anderson has failed to demonstrate character, failed to demonstrate that he can “command the confidence of the community” or that he “will operate honestly, fairly, and efficiently” with respect to his job as an MLO; and,

(c) Anderson failed to promptly disclose the fact that he had been named in a lawsuit whereby an injunction was sought against him to prevent him from engaging in certain financial services related activity.

(d) Anderson failed to promptly disclose that he had multiple business and tax liens filed against him when applying to renew his MLO license

///

///

///

///

///

///

///

///

V.

Conclusion

The Commissioner finds, by reason of the foregoing, that Ben Alexander-Owens Anderson fails to meet the requirement of Financial Code section 50141 and that he withheld information in a license renewal application.

WHEREFORE, notice is hereby given of the Commissioner's intention to issue an order under Financial Code section 50513 to revoke the mortgage loan originator license of Ben Alexander-Owens Anderson.

Dated: May 29, 2018
Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
KENNY V. NGUYEN
Senior Counsel